

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JORDAN DEAN WENHOLD,

No. 4:22-CV-00105

Plaintiff,

(Chief Judge Brann)

v.

DR. ROBERT MARSH, *et al.*,

Defendants.

ORDER

AND NOW, this 6th day of September 2022, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendants' unopposed motion (Doc. 17) for partial dismissal pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED**. Plaintiff's Eighth Amendment failure-to-protect claim against defendant Dr. Robert Marsh and his Fourteenth Amendment procedural due process claims against defendants Lt. J. Stavola and Marsh are **DISMISSED** with prejudice. Plaintiff's state-law negligence claims against all Defendants are **DISMISSED** without prejudice as barred by state statutory sovereign immunity.
2. No further leave to amend shall be granted as amendment would be futile and because Plaintiff has failed to cure the deficiencies with previous amendments allowed. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002).
3. This case shall proceed on Plaintiff's Section 1983 claim against defendant Unit Manager Abbey Nelson for alleged failure to protect in violation of the Eighth Amendment.
4. The Clerk of Court is directed to terminate defendants Stavola and Marsh.

5. Defendant Nelson shall file an appropriate responsive pleading pursuant to the Federal Rules of Civil Procedure.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge